

REMARKS

Applicants would like to thank the Examiner for the substantive review in this case. In the non-final Office Action, the Office rejected claims 1-16. More specifically:

- Claims 1-11 and 13-16 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,104,443 (Paul); and
- Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Paul.

Claims 32-45 have been added. Support for new claims 32-45 may be found in claims 1-13 and the originally filed specification at least at paragraph [0027]. No new matter has been added as a result of these amendments. Upon entry of this Amendment and Response, claims 1-16 and 32-45 will remain pending. For the reasons set forth hereinbelow, Applicants request that the §§102 and 103 rejections associated with the pending claims be withdrawn.

Claims 1-13

Applicants submit that independent claim 1 is not anticipated by Paul because Paul fails to teach or suggest each and every limitation of independent claim 1. *See* MPEP §2131 (stating that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference). More particularly, Applicants submit that Paul fails to teach or suggest, among other things, “determining whether to apply a delay to processing the financial transaction,” as required by claim 1.

Paul discloses a method and system for executing electronic funds transactions using a merchant based debit card. *See* Paul at Abstract. The system operates over conventional card processing infrastructure and utilizes the Automated Clearing House (ACH) processing system to settle the transaction from a consumer checking account or a merchant account in the case of a prepaid card. *See id.* Paul requires the use of an electronic funds instrument, such as a merchant based debit card, to initiate performance of a financial transaction. *See id.* at 2:36-45; 6:1-37; 9:16-21; 16:19-40. Paul then teaches that the transaction is submitted to the ACH processing system, which systematically delays completion of the transaction for a period of time. *See id.* at 4:41-56; 14:45-51; 16:33-34.

Paul does not determine whether to apply a delay to processing a financial transaction. Paul merely submits transactions to the ACH processing system. Processing using the ACH system is subject to a 1 to 3 day delay period (the float period). Rather than determining whether to apply a delay to a processing a financial transaction, as required by claim 1, Paul merely teaches that all transactions processed through the ACH processing system involve an inherent delay.

For at least this reason, Applicants submit that claim 1 is not anticipated by Paul because Paul fails to disclose each and every element of independent claim 1. *See* MPEP §2131. Applicants further submit that claims 2-13, which depend from and incorporate all of the limitations of claim 1, are likewise not anticipated by Paul. Accordingly, Applicants request that the rejections associated with claims 1-13 be withdrawn.

Claims 14-16

Applicants submit that independent claim 14 is not anticipated by Paul because Paul fails to teach or suggest each and every limitation of independent claim 14. *See* MPEP §2131. More particularly, Applicants submit that Paul fails to teach or suggest, among other things, “determining whether to apply a delay to processing the financial transaction,” as required by claim 14.

For substantially the same reasons as set forth above in reference to claim 1, Applicants submit that claim 14 is not anticipated by Paul because Paul fails to disclose each and every element of independent claim 14. *See* MPEP §2131. Applicants further submit that claims 15 and 16, which depend from and incorporate all of the limitations of claim 14, are likewise not anticipated by Paul. Accordingly, Applicants request that the rejections associated with claims 14-16 be withdrawn.

Claims 32-45

Applicants submit that independent claim 32 is not anticipated by Paul because Paul fails to teach or suggest each and every limitation of independent claim 32. *See* MPEP §2131. More

particularly. Applicants submit that Paul fails to teach or suggest at least the following limitations of independent claim 32:

- receiving information regarding a tokenless biometrically-initiated financial transaction involving a consumer and a merchant; and
- determining whether to apply a delay to processing the financial transaction.

Paul discloses a method and system for executing electronic funds transactions using a merchant based debit card. *See* Paul at Abstract. The system operates over conventional card processing infrastructure and utilizes the Automated Clearing House (ACH) processing system to settle the transaction from a consumer checking account or a merchant account in the case of a prepaid card. *See id.* Paul requires the use of an electronic funds instrument, such as a merchant based debit card, to initiate performance of a financial transaction. *See id.* at 2:36-45; 6:1-37; 9:16-21; 16:19-40. Paul then teaches that the transaction is submitted to the ACH processing system, which systematically delays completion of the transaction for a period of time. *See id.* at 4:41-56; 14:45-51; 16:33-34.

Paul does not teach receiving information regarding a tokenless biometrically-initiated financial transaction involving a consumer and a merchant, as required by claim 32. Paul merely teaches using a credit card or debit card (i.e., a token) as part of a financial transaction. In contrast, claim 32 requires receiving information regarding a tokenless biometrically-initiated financial transaction involving a consumer and a merchant.

In addition, Paul does not determine whether to apply a delay to processing a financial transaction. Paul merely submits transactions to the ACH processing system. Processing using the ACH system is subject to a 1 to 3 day delay period (the float period). Rather than determining whether to apply a delay to a processing a financial transaction, as required by claim 32, Paul merely teaches that all transactions processed through the ACH processing system involve an inherent delay.

For at least these reasons, Applicants submit that claim 32 is not anticipated by Paul because Paul fails to disclose each and every element of independent claim 32. *See* MPEP §2131. Applicants further submit that claims 33-45, which depend from and incorporate all of the limitations of claim 32, are likewise not anticipated by Paul. Accordingly, Applicants submit that claims 32-45 are allowable and should be passed to issue.


All of the stated grounds of rejection have been properly traversed, accommodated or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. There being no other rejections, Applicants respectfully request that the current application be allowed and passed to issue.

If the Examiner believes for any reason that personal communication will expedite prosecution of this application, I invite the Examiner to telephone me directly.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment and Response, or credit any overpayment, to deposit account no. 50-0436.

Respectfully submitted,
PEPPER HAMILTON LLP



Joseph T. Helmsen
Reg. No. 54,163

Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219
Telephone: 412.454.5000
Facsimile: 412.281.0717
Date: June 6, 2008